

# Terms and conditions

Jansen Kunststoffen B.V. James Wattstraat 3-5 in (7442 DC) Nijverdal, filed on 10 September 2014  
at the registry of the District Court of Overijssel, location Almelo under number 25/2014.

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## Article 1 Definitions

In these terms and conditions the following definitions apply: “JANSEN”: the private limited company Jansen Kunststoffen B.V.; “Counterparty”: any party that concludes an agreement with Jansen, or with whom Jansen is negotiating the conclusion of an agreement; “Agreement”: the agreement for the delivery of goods and/or the provision of services.

## Article 2 Applicability of terms and conditions

1. These terms and conditions apply to all legal relationships in which JANSEN is a seller, supplier of goods or service provider. The applicability of any terms and conditions as used by the counterparty is hereby explicitly rejected.

## Article 3 Quotations and conclusion of the agreement

1. All quotations and offers from JANSEN are without obligation, unless a deadline for acceptance is specified in the quotation. A quotation or offer shall expire if the product to which the quotation or offer relates is no longer available in the meantime.
2. JANSEN cannot be held to its quotes or offers if the counterparty can reasonably understand that the quotations or offers, or any part thereof, contain an obvious mistake or error.
3. The prices stated in a quotation or offer are exclusive of VAT and other levies by the government, any costs to be incurred in the context of the agreement including travel and subsistence, shipping and handling costs, unless stated otherwise.
4. If the acceptance deviates (whether or not on minor points) from the offering included in the quotation or the offer then JANSEN is not bound by this. The agreement shall in that case not be concluded in accordance with this deviating acceptance, unless JANSEN indicates otherwise.
5. Offers or quotations do not automatically apply to future orders.

## Article 4 Drawings, calculations and constructions

1. The title to drawings, technical descriptions, designs and calculations made by a party or by an external designer commissioned by a party shall be vested with such party. They may not be handed over or shown to third parties by the counterparty with the objective of obtaining a comparable quotation or assignment, or to obtain any benefit for itself and/or third parties. If no assignment is granted, these documents will be destroyed within 3 months after the date of the quotation.
2. Information on manufacturing and/or construction methods, to which copyright/patent right is applicable, or in respect of which a designer as referred to in the first paragraph has a reservation, may not be used, copied, shown to third parties or published by the counterparty, unless JANSEN has given prior permission in writing.
3. The title to all drawings, sketches, graphs, samples, models, photos, etc. which are made for the benefit of and/or by JANSEN and/or delivered to the counterparty, shall be vested with JANSEN and may not be reproduced, used, handed over or shown to a third party in full or in part, unless JANSEN has given prior permission in writing.
4. The counterparty indemnifies JANSEN against claims relating to the intellectual property rights of third parties, or claims by third parties on other grounds, with regard to data provided by the customer to JANSEN.
5. The counterparty shall ensure that the data necessary for the possible execution of works are made available to

JANSEN in good time, before implementation. JANSEN reserves its copyright for any drawings and calculations, documents etc. it has prepared.

6. With regard to the production of work, the counterparty commits itself to making the necessary drawings and all related relevant data available to JANSEN in good time before the start of the work. The counterparty undertakes to ensure that the activities by JANSEN can start on time in a regular manner and can be carried out to the extent agreed. Timely provision of data and drawings means that the counterparty provides the information in question well before the production starts in order to enable delivery at the agreed times/dates.

7. If and insofar as the counterparty has not provided JANSEN with the required data as referred to in these conditions in a timely manner, before commencement of the work, JANSEN has the right, at its discretion, to suspend its obligations until further notice, but in any case until sufficient information has been provided, or to dissolve the agreement. All terms relating to data on the part of the counterparty are deemed to be strict deadlines.

## **Article 5 Price**

1. The quoted and agreed prices are exclusive of VAT and are based on the taxes, levies, wages, social security charges, material and raw material prices and other costs that are applicable on the date of the written quotation.

2. Without prejudice to the provisions of the following paragraph, an amendment of wages, prices or other costs referred to in the first paragraph shall only result in a change to the agreed price, insofar as the parties have agreed the settlement of changes to these cost factors in writing in advance.

3. JANSEN is - in any case - authorised to charge additional costs:

- which are the result of cost-increasing circumstances which JANSEN reasonably does not have to allow for;
- which cannot be attributed to JANSEN; and
- which are significant in relation to the price of the supply.

4. In any event, the cost-increasing circumstances referred to in the previous paragraph shall include an increase of the price for raw materials, as well as a reduction or exceeding of the agreed - whether or not estimated - quantity of plus or minus 5%, as well as the event in which the quantity to be supplied, as stated in the quotation, is changed by more than 5%.

5. If changes to taxes, import duties, levies or other charges are imposed by the Dutch government (including the European government) after the date of the quotation, these will be passed on in full to the counterparty.

## **Article 6 Obligations and liability of the counterparty**

1. The counterparty shall ensure that JANSEN, in accordance with its directions, will have all the data required for the execution of the work and any government regulations of a special nature, insofar they are of importance to JANSEN.

2. The counterparty is obliged to inform JANSEN immediately of any obvious errors or defects in constructions and methods, raw materials, materials or auxiliary materials which the supplier, according to the documents provided by him to the counterparty, intends to deliver or apply.

3. The counterparty is liable for any damage caused by auxiliary persons such as suppliers, raw materials, materials or tools, which have been made available or imposed by it or on its behalf and which, by their nature, are found to be unfit for the purpose for which they are intended according to the agreement.

4. The counterparty bears the responsibility for the constructions and working methods prescribed by it or on its behalf, for the orders and instructions given by it or on its behalf, as well as for the information provided by it or on its behalf.

5. The counterparty shall look after the approvals required for the work, such as permits, exemptions and decisions, as well as the other information to be provided for the work.

6. The counterparty must ensure that work and/or supply activities that are to be carried out by third parties that do not belong to the work of JANSEN are performed in such a way and at a time that the execution of the activities of JANSEN is not delayed. If, however, a delay arises, the counterparty must inform JANSEN in good time.

7. If the commencement of the work of JANSEN is delayed by circumstances that cannot be attributed to JANSEN, the counterparty must compensate JANSEN for the related damage and costs and JANSEN has the right to reschedule the delivery date, even without JANSEN's request.

8. The counterparty bears the risk of damage caused by defects in materials, tools and facilities made available or required by it.

9. Advice, provisions and activities of third parties, whether or not according to data and drawings by JANSEN, which affect or may affect the performance of JANSEN, are for the account and risk of the counterparty.

## **Article 7 Delivery and execution**

1. Deliveries are made Ex Works, unless agreed otherwise. The Incoterms 2010 with latest changes shall apply.

2. The risk of loss or damage to the goods passes to the counterparty at the moment when these are legally and/or factually delivered to the counterparty and are thereby brought under the control of the counterparty or of a third party to be appointed by the counterparty.

3. The counterparty is obliged to compensate the cost of the materials used for packaging and transport, even if it concerns a deposit or a security payment. In case of return of packaging materials charged with a deposit, within 30 days of delivery, the counterparty will be credited.

4. The counterparty shall bear all costs, risks and shall ensure proper transport insurance in the event that, in deviation from paragraph 1, delivery takes place in another way and/or location.

5. To determine the delivery time, a certain date and a specific time will be stated in the agreement prior to delivery, or a period of time.

6. The indication of the delivery time is always approximate, unless otherwise expressly agreed in writing. Exceeding a delivery time does not oblige JANSEN to pay any compensation. The counterparty is not entitled to additional or replacement compensation or non-compliance or suspension of any obligation arising from the contract. The counterparty is in this case also not entitled to terminate or dissolve the agreement. If JANSEN should exceed the delivery time for reasons other than referred to in paragraph 7 of this article, the counterparty shall have the right to issue JANSEN a new delivery term in writing, in case of non-compliance of which the counterparty is entitled to dissolve the agreement, insofar as not yet executed, by means of a written statement. In that event, the counterparty shall not be entitled to compensation for any damage it may suffer either.

7. The delivery time will in any case be extended by the duration of the period of delay caused by force majeure or acts or omissions, whether or not attributable to the counterparty. If the delay in the delivery time is caused by the counterparty, JANSEN has the right to terminate the agreement.

8. In the event that a delivery period is specified in the agreement and the counterparty needs to call off, it will do so in good time, at least 5 working days before the start of that period, unless otherwise agreed in writing. In this case, the parties shall confirm the date and time of delivery, or set a new date and a new time of delivery in writing, or the parties shall come to an agreement on a new call-off term. 9. The lapse of a single call-off term will result in the counterparty being in default and JANSEN shall have the right to terminate the agreement, or to send the goods to the counterparty.

10. JANSEN is permitted, where this is customary, to supply up to 10% more or less than stated in the [order] confirmation and to invoice accordingly.

11. JANSEN has the right to have work performed by third parties.

12. JANSEN is entitled to execute the agreement in different phases and therefore to invoice the executed part separately.

13. If the agreement is executed in phases, JANSEN can suspend those parts which belong to a subsequent phase, until the counterparty has approved the results of the preceding phase in writing. 14. The counterparty is obliged to take delivery of the goods as soon as they are offered by JANSEN. All costs and damage that arise for JANSEN due to non-acceptance by the counterparty of [a part of] the goods ordered by it, are at the expense and risk of the counterparty, including storage costs.

## **Article 8 Suspension and termination of the agreement**

1. JANSEN is authorised to suspend compliance with the obligations or to terminate the agreement dissolve, if:

- the counterparty does not, not fully or not timely fulfil the obligations arising from the agreement;
- after the conclusion of the agreement, circumstances come to light that give JANSEN good reason to fear that the

counterparty will not fulfil its obligations;

- the counterparty was requested at the conclusion of the agreement to provide security for the fulfilment of its obligations under the agreement and this security has not been provided or is insufficient.

2. Furthermore, JANSEN is entitled to terminate the agreement if circumstances arise which are of such a nature that fulfilment of the agreement is impossible or if other circumstances arise that are of such a nature that the unaltered execution of the agreement cannot reasonably be expected of JANSEN.

3. In the event that the agreement is dissolved, the claims of JANSEN on the counterparty shall be due immediately. If JANSEN suspends compliance with its obligations, it shall retain its rights under the law and the agreement.

4. If JANSEN proceeds to suspension or dissolution, it shall in no way be bound to compensation for damage and costs arising in any way.

5. If the termination is attributable to the counterparty, JANSEN shall be entitled to compensation for the damage (such as: storage costs, transport costs and loss of profit) which may arise directly and indirectly as a result. After the termination of the agreement, the counterparty is liable, without prejudice to the aforementioned, to pay a fine of 10% of the purchase price, which can be claimed immediately without further notice of default.

6. If the counterparty fails to fulfil its obligations arising from the agreement, JANSEN shall be entitled to terminate the agreement immediately and with immediate effect without any obligation on its part to pay any compensation or damages, while the counterparty, in the event of non-performance, is liable to pay compensation or damages.

## **Article 9 Guarantees and liability**

1. The work or matters to be carried out by JANSEN shall meet the usual requirements and standards that can be reasonably expected at the time of delivery and for which they are normally intended for use in the Netherlands.

No guarantee is given or promise is made regarding materials and manufacturing, their processing possibilities, possible applications and tradability. The guarantee mentioned in this paragraph applies for a period of 1 month after delivery.

2. Details of what is being offered such as properties, colour, dimensions and details provided on the website, in printed matter, drawings and images provided by JANSEN with the quotation, are not binding on it and are provided in good faith.

3. Slight colour, structural and other differences are permissible. The counterparty indemnifies JANSEN with regard to any liability for possible colour deviations and/or discolorations and/or other differences.

4. At the conclusion of the agreement, the counterparty is deemed to be familiar with all of the specifications of the purchased item that are of interest to it. For use outside the Netherlands, the counterparty must itself verify whether the use thereof is suitable for use there and meets the conditions that are set for this use.

5. The counterparty is obliged to examine the delivered goods (or have them examined) immediately from the moment the items are provided to him or when the relevant activities have been executed. In addition, the counterparty must investigate whether the quality and/or quantity of the delivered goods corresponds to the agreements made and meets the requirements that the parties have agreed in this regard. Any defects must be reported in writing to JANSEN within 8 working days after delivery. The report must contain a description of the defect that is as detailed as possible, so that JANSEN is able to respond adequately. The counterparty must give JANSEN the opportunity to investigate a complaint or have it investigated.

6. If the counterparty complains in good time, this does not suspend its payment obligation. In that case, the counterparty also remains obliged to purchase and pay for any other ordered goods.

7. If a defect is reported later, the counterparty will no longer be entitled to repair, replacement or compensation.

8. If it is established that a matter is defective and a complaint has been made about this in good time, then JANSEN will, within a reasonable period after its return or, if return is not reasonably possible, after receiving written notice of the defect from the counterparty, at JANSEN's option, replace the defective item or arrange for its repair or replacement

## **Article 12 (Collection) costs**

If the counterparty fails to meet one of its obligations or fails to do so in time, the following shall be added to the agreed price at the expense of the counterparty:

- all costs for obtaining extrajudicial settlement, including costs for the drafting and sending of reminders, making a settle-

compensation to be paid to the counterparty. The costs of removal and installation are at the expense of the counterparty. In the event of replacement, the counterparty is obliged to return the replaced item to JANSEN and to provide ownership thereof to JANSEN, unless JANSEN indicates otherwise.

The guarantee does not contain any obligation to compensate for (consequential) damage that may arise for the counterparty through redelivery, repair or otherwise. JANSEN shall not at any time be liable for consequential damage.

9. If it is established that a complaint is unfounded, then any costs that arise, including the research costs, which have been made on JANSEN's side, shall be fully at the expense of the counterparty.

10. Contrary to the legal limitation periods, the limitation period of all claims and defences against JANSEN and the third parties involved by JANSEN in the execution of an agreement, is one year.

11. JANSEN shall not be liable for damage of whatever nature caused by a contractor which has been based on incorrect and/or incomplete data provided by or on behalf of the client.

12. If JANSEN should be liable for any damage, then the liability of JANSEN is limited to a maximum of the invoice value of the agreement, insofar as it applies to that part of the agreement to which the liability relates, unless and insofar as the damage is the direct result of intent or gross negligence on the part of JANSEN. This exclusion of liability also applies to serious types of damage such as all possible types of damage as a result of injury or death.

13. The liability of JANSEN is in any case always limited to the amount paid out by its insurer, if applicable.

14. JANSEN is only ever liable for direct damage.

15. Direct damage is exclusively understood to mean the reasonable costs incurred for determining the cause and the extent of the damage, insofar as the determination relates to damage within the meaning of these terms and conditions, any reasonable costs incurred to make the defective performance of JANSEN conform to the agreement, insofar as these can be attributed to JANSEN and reasonable costs incurred to prevent or limit damage, insofar as the counterparty demonstrates that these costs have led to the limitation of direct damage as referred to in these general conditions.

16. JANSEN shall not at any time be liable for indirect damage, including consequential damage, lost profit, missed savings and damage due to interruption in business operations.

## **Article 10 Retention of title**

1. The goods delivered by JANSEN remain JANSEN's property until the counterparty has met all obligations from all agreements concluded with JANSEN.

2. If the counterparty fails to meet its obligations or there is good reason to fear that it will not do so, JANSEN will be entitled to remove delivered goods or to have them removed, even if the retention of title referred to in paragraph 1 is vested with the counterparty or third parties who hold the goods for the counterparty. The counterparty is obliged to provide all cooperation in this regard on pain of a fine of 10% of the amount it is due per day.

3. If third parties wish to establish or assert any right to the goods delivered under retention of title, the counterparty is obliged to inform JANSEN as soon as can reasonably be expected.

## **Article 11 Payment**

1. Payment must be made - without suspension, discount, deduction or set-off against a claim which the counterparty has or believes it has on JANSEN - to be made within 30 days of the invoice date,

- either by legal tender at the office of JANSEN;

- or by transferring the amount due to the bank account of JANSEN.

After the expiry of 30 days from the invoice date, the counterparty shall be in default without further notice of default; from the moment of default, the counterparty shall owe interest of 1.5% per month on the amount due.

2. If JANSEN suspects that the counterparty is not fulfilling its obligations, JANSEN is entitled to demand security for the account and risk of the counterparty.

3. In the event of liquidation, bankruptcy or a request for suspension of payment of the counterparty or when an application for a debt rescheduling arrangement is made with regard to the counterparty, the obligations of the counterparty are immediately due and payable.

ment proposal and gathering information. In any case, the counterparty shall owe 10% of the agreed purchase price. If JANSEN has incurred higher costs, these will also be eligible for reimbursement.

- all costs involved in obtaining a legal settlement.

### **Article 13 Force Majeure**

1. Force majeure is understood to mean circumstances that prevent the fulfilment of the obligation, and that cannot be attributed to JANSEN. This will also include (if and to the extent that these circumstances make fulfilment impossible or unreasonably complicated) strikes in companies other than those of JANSEN, unforeseeable business interruption at suppliers or other third parties on which JANSEN depends and general transport problems.
2. JANSEN also has the right to invoke force majeure if the circumstance that prevent (further) compliance after JANSEN should have fulfilled its commitment.
3. During force majeure, the delivery and other obligations of JANSEN are suspended. If the period, in which compliance with the obligations by JANSEN is not possible due to force majeure, lasts longer than two months, both parties are entitled to terminate the agreement without there being any obligation to pay compensation.
4. If JANSEN has already partially fulfilled its obligations upon the commencement of the force majeure, or can only partially fulfil its obligations, it is entitled to invoice the delivered part or the deliverable part separately and the counterparty is obliged to pay this invoice as if it concerned a separate contract. However, this does not apply if the already delivered or deliverable part has no independent value.

### **Article 14 Disclaimer**

1. The counterparty shall indemnify JANSEN against all claims from third parties, which directly or indirectly, mediately or immediately, are related to the implementation of the agreement or arising from the law.
2. If JANSEN should be called upon by third parties on that basis, then the counterparty is obliged to assist JANSEN both outside and in court and to immediately do everything that may be expected of it in that case. If the counterparty fails to take adequate measures, JANSEN is entitled to do so by itself without notice of default. All costs and damage on the part of JANSEN and third parties that arise as a result are fully for the account and risk of the counterparty.

### **Article 15 Applicable law**

1. All legal relationships to which JANSEN is a party are exclusively governed by Dutch law, also if an obligation is fully or partially implemented abroad or if the party involved in the legal relationship is domiciled there. The applicability of the Vienna Sales Convention is excluded.
2. The court in JANSEN's place of business has exclusive jurisdiction to hear disputes unless the law requires otherwise. Nevertheless, JANSEN has the right to submit the dispute to the competent court according to the law.

### **Article 16 Location and change of conditions**

1. These terms and conditions have been filed with the Court of Overijssel, location Almelo.
2. The Dutch text of the general terms and conditions is always decisive for their interpretation.

## **Jansen kunststoffen bv**

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Overijssel, Netherlands  
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[administratie@jansenkunststoffen.nl](mailto:administratie@jansenkunststoffen.nl)

## **Opening Hours**

Sales &  
Administration Warehouse

<b>Mon</b>	08:00-16:45	08:00-16:15	hour
<b>Tue</b>	08:00-16:45	08:00-16:15	hour
<b>Wed</b>	08:00-16:45	08:00-16:15	hour
<b>Thur</b>	08:00-16:45	08:00-16:15	hour
<b>Fri</b>	08:00-16:30	08:00-16:00	hour

## **Additional Company Information:**

VAT number: NL004142007B01  
Chamber of commerce number: 06042307  
IBAN number: NL30INGB0652061125  
BIC number: INGBNL2A  
EORI number: NL004142007